

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JAMES MCDONALD,

Plaintiff,

v.

ONE WEST BANK, FSB, et al.,

Defendants.

No. 10-CV-01952-RSL

DECLARATION OF FRED B.
BURNSIDE IN SUPPORT OF
MOTION FOR
RECONSIDERATION OR
CLARIFICATION

I, Fred B. Burnside, declare as follows:

1. I am a partner with Davis Wright Tremaine LLP and as of March 14, 2013 am counsel of record for Mortgage Electronic Registration Systems, Inc. ("MERS"). I have personal knowledge of the facts stated in this declaration and am competent to testify to the same.

2. Attached as Exhibit A is a true and correct copy of MERS' Supplemental Disclosures dated March 18, 2013, and an excerpt of the documents I produced with the those disclosures, which was served on all counsel.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

EXECUTED at Seattle, Washington this 21st day of March, 2013.

s/ Fred B. Burnside

Fred B. Burnside

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that on March 21, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

- **Heidi Buck Morrison**
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- **Ha Thu Dao**
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and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants: N/A

DATED this 21st day of March, 2013.

Davis Wright Tremaine LLP
Attorneys for Defendant MERS

By s/ Fred B. Burnside
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APPENDIX A

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DEFENDANT MERS's
CORRECTED SUPPLEMENTAL
DISCLOSURES

Defendants Mortgage Electronic Registration Systems, Inc. ("MERS") hereby supplements its initial disclosures under Fed. R. Civ. P. 26(e) to specifically incorporate documents previously produced or otherwise disclosed during the course of these proceedings.

MERS makes these disclosures based on the information reasonably available to it as of the date of this filing. Defendants reserve the right to supplement their disclosures at any time in accordance with Fed. R. Civ. P. 26(e).

Defendants further note that the information set forth in the following disclosures may include hearsay and other forms of information that are unreliable, irrelevant, or not otherwise admissible in evidence. Defendants therefore reserve all objections relating to inadmissible evidence. Defendants further state that the disclosures and any supplementation to the disclosures are made subject to the following objections:

- Privileged Materials: Defendants specifically reserve and assert their objection to production of documents and tangible things that are protected from disclosure by the following privileges: investigative and trial preparation materials under Fed. R. Civ. P. 26(b)(3); work product materials under Fed. R. Civ. P. 26(b)(3) and (4); consulting expert materials under Fed. R. Civ. P. 26(b)(4)(B); attorney-client communications, and other applicable privileges.
- Irrelevant Materials: Defendants further object to the disclosure of any information that is not reasonably calculated to lead to the discovery of admissible evidence, or which is not likely to bear upon any claim or defense.

I. INDIVIDUALS LIKELY TO HAVE DISCOVERABLE INFORMATION

- **Plaintiff James McDonald, c/o Ha Dao, counsel for Plaintiff.** Plaintiff has discoverable information as to the facts supporting and refuting the allegations in his complaint, including his default, his loan, his deed of trust, and documents he relied upon.
- **Corporate Representatives of OneWest Bank, FSB (“OneWest”), c/o Larkins Vacura, counsel for OneWest.** OneWest has discoverable information about its contractual relationship with MERS. Employees or officers include Charles Boyle and Brian Burnett, who was also a MERS signing officer at the time of the execution of the Assignment of the Deed of Trust.
- **MERS, c/o Fred B. Burnside, counsel for MERS.** MERS may call one or more MERS representatives to testify concerning MERS’s role in Plaintiff’s Deed of Trust, MERS’s interest in the Deed of Trust, and MERS’s assignment of the Deed of Trust. All such witnesses may be contacted only through counsel for MERS.

II. DESCRIPTION OF DOCUMENTS, DATA AND TANGIBLE THINGS

- Plaintiff’s Deed of Trust (already produced, attached to Complaint by Plaintiff).
- MERS’s Assignment of Deed of Trust (already produced, attached to Complaint by Plaintiff).

- MERS's member-related documents, including membership applications from IndyMac Bank, FSB and OneWest, MERS's Terms and Conditions, MERS's Membership Agreement with Freddie Mac (collectively produced previously), and MERS's Rules as of January 2010 (Exhibit A attached hereto);
- MERS Milestone Report and MIN Summary for Plaintiff's loan (already produced in discovery);
- MERS Corporate resolution authorizing certain officers of OneWest to act as signing officers of MERS (already produced in Discovery), including November 2009 supplemental list of MERS Signing Officers for OneWest Bank. *See* Dckt. 233-1, at 39:16-19; *see also* Exhibit B attached hereto.

III. COMPUTATION OF CLAIMED DAMAGES

MERS does not anticipate asserting a counterclaim for damages in this action, and thus it has no computation to provide or supporting evidentiary materials to produce. MERS reserves the right to supplement or amend this disclosure.

IV. INSURANCE AGREEMENT

MERS is unaware of any insurance policy that covers the claims at issue.

DATED this 18th day of March, 2013.

Davis Wright Tremaine LLP
Attorneys for Defendant MERS

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CERTIFICATE OF SERVICE

I hereby certify that on March 18, 2013, I served foregoing to the following via electronic mail and US Mail:

- **Heidi Buck Morrison**
hbuck@rcolegal.com, tkwong@rcolegal.com, ecflit@rcolegal.com, kstephan@rcolegal.com, buck4343@gmail.com
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DATED this 18th day of March, 2013.

Davis Wright Tremaine LLP
Attorneys for Defendant MERS

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APPENDIX B

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OneWest Bank, FSB

ORG ID 1008171

Mortgage Electronic Registration Systems, Inc.

Certifying Officers

Effective Date 11/20/09

Friedman, Eric

Jancarz, Kenneth

Parres, John

Stotts, Roger D

Brewton, Connie

Mastro, Karen

Stanford, Mike

Kirkpatrick, Dennis

Spencer, Kelley Cooper

Lerud, Bart

Johnson-Seck, Erica

San Pedro, JC

Williams, Chamagne

Murray, Suchan

Boyle, Charles

Burnett, Brian

Kemp, Kristin

Cotton, Betty

Nix, Sheila

Camarillo, Maria

Cleary, Kira

Bobbitt, Sean

Treichler, Judy

Engel, Claudia

Hunter, Teri

North, Sue

Schneider, Sandy

Williams, Darryl

Peters, Darcy

Meyer, Tim